



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

345 COURTLAND STREET, N.E.  
ATLANTA, GEORGIA 30365

GENERAL NOTICE LETTER  
FOR REMEDIAL DESIGN/REMEDIAL ACTION  
URGENT LEGAL MATTER - PROMPT REPLY REQUESTED  
OVERNIGHT EXPRESS MAIL

Nelson Wong  
Projects Manager  
Carrier Corporation  
855 Anaheim Puente Road  
City of Industry, California 91749

RE: Carrier Air Conditioning Superfund Site  
Collierville, Tennessee

Dear Mr. Wong:

On September 3, 1992, the United States Environmental Protection Agency (EPA) signed a Record of Decision (ROD) for the Carrier Air Conditioning Site ("the Site") located in Collierville, Tennessee. The ROD specifies EPA's selected remedy for the cleanup of the Site which includes, but is not limited to, soil vapor extraction and groundwater recovery and treatment.

The purposes of this letter are as follows: first, to notify the Carrier Corporation of its potential liability for the remedial design and remedial action (RD/RA) phases of the selected remedy, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9607(a), as amended; second, to notify you of the time period EPA has established for negotiations; and third, to provide you with information and documents that will assist you in the negotiation process, specifically, copies of a draft Consent Decree (Enclosure A), EPA's Record of Decision (Enclosure B), a Scope of Work for RD/RA (Enclosure C), and the name and address of the other party receiving this notice (Enclosure D).

NOTICE OF POTENTIAL LIABILITY

Potentially responsible parties (PRPs) under CERCLA include: the current owners or operators of the Site; persons who at the time of disposal of hazardous substances owned or operated the facility; persons who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for disposal or treatment of hazardous substances; and persons who accept or accepted any hazardous substance for transport to disposal facilities and selected such facilities.



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Under CERCLA and other laws, PRPs may be liable for all funds expended by the United States to take necessary corrective action at the Site, including planning, investigation, cleanup and enforcement activities. In addition, PRPs may be required to pay damages for injury to natural resources or for their destruction or loss, together with the cost of assessing such damages.

Based on information received during the investigation of this Site, EPA believes that the Carrier Corporation may be a responsible party under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), as an owner and operator of a facility from which there has been a release. Before the United States undertakes further remedial actions, EPA requests that the PRPs voluntarily perform the remedial work.

#### GENERAL NOTICE AND NEGOTIATION MORATORIUM

EPA encourages good faith negotiations between EPA and the PRPs and between the PRPs themselves regarding the response actions required at the Site. EPA has determined that, although a moratorium will be productive, the special notice procedures of Section 122(e) of CERCLA, 42 U.S.C. § 9622(e), will not be necessary. EPA has determined that because there are only two PRPs identified at this Site, the protracted procedures in Section 122 will not be beneficial for negotiation of the anticipated response action. Therefore, a 30-day moratorium will begin on the date of this letter. During this moratorium, EPA will not commence any action under Sections 104(a) and 106 of CERCLA, 42 U.S.C. §§ 9604(a) and 9606, associated with the presently-identified contamination at the Site. However, EPA reserves the right to take immediate response action necessary to address releases of hazardous substances, pollutants or contaminants at the Site if the circumstances warrant such response action. During this 30-day period, the PRPs are invited to participate in formal negotiations with EPA to reach a settlement providing for the PRPs to conduct or finance the RD/RA at the Site. The 30-day period will be continued if, within the original 30 days, the PRPs provide EPA with a good faith offer to conduct or finance the RD/RA. If a settlement is reached between EPA and the PRPs within the moratorium period, the settlement will be embodied in a consent decree for the RD/RA. The negotiations will proceed according to the schedule included in this letter. The moratorium period, including the time for the good faith offer, will not be extended beyond 90 days.

A good faith offer is a written proposal which demonstrates the PRPs' qualifications and willingness to conduct or finance the RD/RA. A good faith offer to conduct or finance the RD/RA will include the following elements:

1. A statement of willingness by the PRPs to conduct or finance the RD/RA which is consistent with the draft Consent Decree, Scope of Work, and the Record of Decision and which provides a sufficient basis for further negotiations.
2. A paragraph by paragraph response to the draft Consent Decree and Scope of Work.
3. A demonstration of the PRPs' technical capability to carry out the RD/RA including the identification of the firm(s) that will be used to conduct the work or a description of the process that will be used to select the firm(s).
4. A demonstration of the PRPs' capability and willingness to finance the RD/RA.
5. A statement of the PRPs' willingness to reimburse EPA for costs incurred in overseeing the PRPs' conduct of the RD/RA.
6. The name, address and telephone number of the party who will represent the PRPs in negotiations.

#### ADMINISTRATIVE RECORD

Pursuant to Section 113(k) of CERCLA, 42 U.S.C. § 9613(k), EPA has established the administrative record which contains documents that form the basis of EPA's decision on the selection of a response action for the Site. Copies of the administrative record for this Site are available to the public at the Memphis/Shelby County Public Library located in Collierville, Tennessee and at the EPA Region IV Records Center in the Region IV Offices, Atlanta, Georgia.

#### PRP RESPONSE AND EPA CONTACT

As this letter provides, the Carrier Corporation has 30 days from the date of this letter to submit a good faith offer to EPA for conduct of the RD/RA. Please contact EPA in writing to indicate whether the Carrier Corporation intends to participate in negotiations to undertake or finance the RD/RA at this Site.

If EPA does not receive a timely response, EPA will assume that the Carrier Corporation does not intend to negotiate a resolution of its liabilities in connection with the response and EPA may take appropriate action to ensure the remedial action is undertaken. The Carrier Corporation may be held liable thereafter under Section 107 of CERCLA, 42 U.S.C. § 9607, for the

cost of the response actions which EPA performs at the Site and for any damages to natural resources.

Your response to this notice letter should be sent to:

Peter J. Raack  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
345 Courtland Street, N.E.  
Atlanta, Georgia 30365

NEGOTIATION SCHEDULE

EPA is setting forth the following negotiation schedule:

November 5, 1992	Good faith offer is due from PRPs, including comments on the draft consent decree and scope of work
November 13, 1992	EPA will submit draft revised consent decree and scope of work to PRPs
November 19, 1992	EPA and PRPs will meet to discuss draft consent decree and scope of work (time and location to be announced)
November 30, 1992	PRPs will submit revised draft consent decree and scope of work
December 7, 1992	EPA will submit final consent decree and scope of work
December 14, 1992	PRP will sign final consent decree and scope of work
December 21, 1992	EPA will sign final consent decree and scope of work

If you have any questions pertaining to this matter, please direct them to Peter Raack at (404) 347-2641, ext. 2243, or Beth Brown, Remedial Project Manager, at (404) 347-7791.

Due to the seriousness of the problem at the Site and the legal ramifications of your failure to respond promptly, EPA strongly

encourages you to give this matter your immediate attention and respond within the time specified above.

Thank you for your cooperation in this matter.

Sincerely,

Joseph R. Franzmathes  
Director  
Waste Management Division

Enclosures

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